

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of)

Implementation of Sections 3(n)
and 332 of the Communications Act)

Regulatory Treatment
of Mobile Services)

GN Docket No. 93-252

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

REPLY COMMENTS OF
AMSC SUBSIDIARY CORPORATION

AMSC Subsidiary Corporation ("AMSC") hereby submits its reply to the comments filed on the Notice of Proposed Rulemaking ("Notice") in the above-referenced docket.^{1/} As discussed below, AMSC's position is that the Commission should affirm that AMSC may provide dispatch service and forbear from imposing most Title II regulation on Mobile Satellite Service that are classified as commercial mobile services. In all instances, the Commission should strive to provide a level playing field for competing service providers.

Dispatch. The FCC has always included dispatch service as a component of Mobile Satellite Service. A significant market for MSS is the interstate transportation industry, and dispatch services are a vital communications need within that industry. This need can be met uniquely on a nationwide basis by a ubiquitous service such as can be provided by an MSS system.

1/ Notice of Proposed Rulemaking, Implementation of Sections 3(n) and 332 of the Communications Act: Regulatory Treatment of Mobile Services, GN Docket No. 93-252 (October 8, 1993).

Moreover, AMSC's presence in the dispatch market will bring the benefits of increased competition.

Most commenters support lifting the prohibition on the provision of dispatch service by commercial mobile service providers. A few commenters would have the FCC continue the prohibition on dispatch for terrestrial commercial mobile service providers, at least for a 3-year transition period.^{2/} Any such prohibition or transition, however, should not apply to MSS systems, since there has never been a prohibition on MSS including dispatch service.

Regulation of mobile satellite services. There is general support for the proposition that commercial mobile services provided by satellite should be subject to the minimum necessary Title II regulation.^{3/} The commercial mobile service market is extremely competitive and new entrants such as AMSC have no market power. Thus, it is appropriate for the Commission to exercise its authority to forebear from applying Sections 203-205, 210-215, and 218-221 of the Communications Act to allow MSS operators maximum flexibility in providing new services.^{4/}

2/ See Comments of E.F. Johnson Company; Geotek Industries, Inc.; NABER; NextTel.

3/ See Comments of Arch Communications Group, Inc.; GTE Service Corporation; Mobile Telecommunications Technologies Corp.; Motorola, Inc.; New Par; NYNEX Corporation; Telocator; and TRW, Inc.

4/ AMSC also asked that the Commission preserve the right of forborne commercial mobile service providers to file tariffs, if they so choose.

A number of commenters suggest that the Commission allow domestic satellite licensees to provide service on a private carrier basis, as it has in the non-voice, non-geostationary ("NVNG") MSS proceeding, in which the Commission decided to give space station licensees the option to choose classification as either a common carrier or a private carrier. See Report and Order, CC Docket No. 92-76, FCC 93-478 (November 16, 1993). Motorola and TRW, for example, which are applicants for "Big LEO" MSS licenses, suggest that space segment providers could be regulated as private carriers. Also, Rockwell, which is an MSS reseller, argues that entities that resell satellite service to end users should be regulated as private carriers.

AMSC supports the views of Motorola, TRW and Rockwell to the extent they result in all providers of equivalent services being regulated in the same manner. Private carriers have unlimited flexibility to price their service offerings to meet the needs of individual customers. The clear intent of the new law is that commercial mobile service providers should not be placed at a disadvantage in the marketplace by having to compete with carriers that offer similar services but have greater flexibility as the result of their being regulated as private carriers. Thus, to the extent that NVNG MSS providers offer services similar to those offered by AMSC, those providers and AMSC should be regulated in the same manner in their provision of those services. Similarly, if the Commission decides to regulate "Big LEO" MSS licensees as private carriers in their provision of space segment, then geostationary MSS system licensees such as

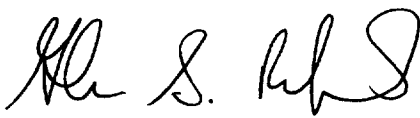
AMSC should be regulated as private carriers as well for any similar service offerings. Moreover, if resellers are permitted to market to end users without facing Title II regulation, then the underlying carrier should be permitted to engage in the same marketing activities of the same services with the same freedom.^{5/}

Conclusion


For the above stated reasons, AMSC respectfully urges the Commission to adopt rules consistent with AMSC's position herein.

Respectfully submitted,

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^{5/} Similarly, the Commission should not place additional safeguards on commercial mobile service affiliates of dominant carriers in this proceeding. See Comments of GTE Service Corporation, Pacific Bell, Rochester Telephone and TRW. The determination to place any safeguards on these carriers should be made on a case-by-case basis, with particular focus on the market power of the commercial service provider and the potential for abuse that may arise from its relationship with the dominant carrier. It would be premature to decide this issue now, in particular, while many of the commercial mobile service markets are still developing.

CERTIFICATE OF SERVICE

I, Leslie Anne Byers, a secretary in the law firm of Fisher, Wayland, Cooper and Leader, do hereby certify that I have this 23rd day of November, 1993, mailed copies of the foregoing "**REPLY COMMENTS OF AMSC SUBSIDIARY CORPORATION**" by first class United States mail, postage prepaid, to the following:

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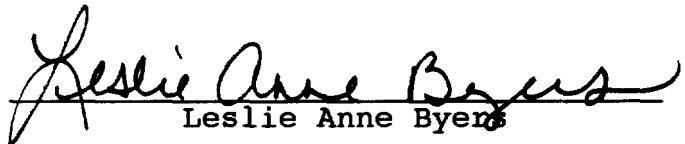
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